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Petitioner

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	
)	
PETITION TO AMEND RULE 34)	Supreme Court No. R - __ - _____
OF THE SUPREME COURT OF)	
ARIZONA)	
)	Petition to Amend Rule 34
)	
)	(Expedited Consideration Requested)
_____)	

TO: THE HONORABLE JUSTICES OF THE ARIZONA SUPREME COURT

Pursuant to Rule 28, Rules of the Supreme Court, Petitioners, Applicants to the Arizona Bar who registered for the Arizona Bar Exam (“Bar Exam”), respectfully request the Court adopt an amendment to Rule 34 of the Rules of the Supreme Court of Arizona permitting an **optional**

diploma privilege¹ for **first-time Applicants** currently registered for the Arizona Bar Exam.

Additionally, Petitioners respectfully request that the Court decrease the Uniform Bar Exam (UBE) minimum passing score from **273** to **266** for the July 2020 Bar Exam. Finally, Petitioners ask the Court to take up the Petition and open it to the public for comment.

Petitioners request such relief due to the exceptional circumstances created by the global pandemic of SARS-CoV-2 and undue hardships the virus has caused Applicants.

In Support of this Petition, Petitioners state the following:

1. The Arizona Supreme Court has the exclusive authority to decide who may engage in the practice of law. A.R.S. Const. Art. 3.
2. Because admission to the practice of law is a judicial function, the Supreme Court may, in its exercise of its inherent powers, admit Applicants to practice law with or without action by the State Committee on Examinations and Admissions. *Application of Courtney*, 83 Ariz. 231, 319 P2d 991 (1957). Current local and national public health conditions justify the exercise of such power.

I. The COVID-19 Pandemic Warrants Alternative Pathways to Licensure and Accommodations.

3. On January 30, 2020, the World Health Organization's (WHO) Director-General declared the outbreak of SARS-CoV-2, the virus that causes COVID-19, to be a Public Health Emergency

¹ Washington Supreme Court granted optional diploma privilege to Applicants currently registered for the July 2020 Bar Exam, and granted the option of taking the Bar Exam in July to those still wishing to receive a Uniform Bar Exam score. *Order Temporarily Modifying Admission and Practice Rules*, No. 25700-B623 (Wash. 2020). This option reduces the total number of test takers, making it more feasible to administer an exam that complies with CDC recommendations, as well as allows those especially affected by the pandemic to receive diploma privilege.

International Concern.² Pursuant to the WHO's International Health Regulations, the organization issued temporary recommendations to all nations.³

4. On March 11, 2020, the WHO declared COVID-19 a global pandemic.⁴

5. On March 11, 2020, Governor Doug Ducey declared a State of Emergency⁵ and issued an executive order in response to COVID-19.⁶ On March 18, the Maricopa County Board of Supervisors signed a Proclamation of a Local Emergency in Maricopa County.⁷

6. On June 6, 2020, the director of the Arizona Department of Health Services sent a letter to Arizona hospitals urging them to fully activate their facility emergency plans and surge beds.⁸

7. On June 17, 2020, Governor Doug Ducey issued an executive order authorizing local governments to mandate face masks within their jurisdiction.⁹ In response, several localities, including Coconino County, Maricopa County, City of Phoenix, Scottsdale, Tempe, and Tucson, issued proclamations mandating face masks in public.¹⁰

8. Between June 22-26 2020, Arizona had over 19,000 new COVID-19 cases.¹¹

² VERTIC, COVID-19 as a Public Health Emergency of International Concern (PHEIC) under the IHR, WORLD HEALTH ORGANIZATION (May 2020), <https://extranet.who.int/sph/covid-19-public-health-emergency-international-concern-pheic-under-ihp>.

³ *Id.*

⁴ Helen Branswell, *WHO Declares the Coronavirus Outbreak a Pandemic*, STAT NEWS (March 11, 2020), <https://www.statnews.com/2020/03/11/who-declares-the-coronavirus-outbreak-a-pandemic/>.

⁵ *COVID-19: Declaration of Emergency, Executive Order*, OFFICE OF THE GOVERNOR DOUG DUCEY (Mar. 11, 2020), <https://azgovernor.gov/governor/news/2020/03/covid-19-declaration-emergency-executive-order>.

⁶ ARIZ. EXEC. ORDER NO. 2020-07 (Mar. 19, 2020), https://azgovernor.gov/sites/default/files/eo_2020-07.pdf.

⁷ *Maricopa County Chairman signs Emergency Declaration*, MARICOPA COUNTY (Mar. 18, 2020), <https://www.maricopa.gov/CivicAlerts.aspx?AID=1050>.

⁸ *Arizona Department of Health Services, Letter Re: Hospital Preparedness During Covid-19*, ARIZONA DEPARTMENT OF HEALTH SERVICES (June 6, 2020), <https://azdhs.gov/documents/preparedness/epidemiology-disease-control/infectious-diseases-services/coronavirus/hospital-preparedness-covid-19-jun-2020.pdf>.

⁹ ARIZ. EXEC. ORDER NO. 2020-40 (June 17, 2020).

¹⁰ *LIST: These Arizona Cities and Counties are Requiring Face Masks in Public*, AZFAMILY.COM (June 18, 2020), https://www.azfamily.com/news/continuing_coverage/coronavirus_coverage/list-these-arizona-cities-and-counties-are-requiring-face-masks-in-public/article_83403294-b1a0-11ea-9c3a-abc7286a8c77.html.

¹¹ Arizona Department of Health Services, *Confirmed Covid-19 Cases By Day*, <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php> (last visited June 28, 2020).

9. Approximately two-thirds of confirmed cases in Arizona have occurred in Maricopa County, where the Bar Exam will be administered.¹²

10. Approximately 49% of confirmed cases in Arizona fall between the age group of 20-44, the likely age of Applicants of the Bar Exam.¹³

11. As of June 25, 2020, only 12% of Adult Intensive Care Unit beds remain available at Arizona hospitals.¹⁴

12. On June 25, 2020, Governor Ducey stated in a press conference, “We expect our numbers will be worse next week and the week following,” and that the virus was “widespread,” in Arizona.¹⁵

13. On June 28, 2020, Arizona had its largest increase of new cases (3,858).¹⁶

14. On June 29, 2020, Governor Ducey issued an executive order prohibiting mass gatherings of people across the state for 30 days effective immediately.¹⁷

15. On June 29, 2020, Governor Ducey issued an executive order delaying in- person classes for the school year until August 17, 2020.¹⁸

¹² *Id.* (According to the Arizona Department of Health Services 44,962 confirmed cases have occurred in Maricopa County.).

¹³ *Id.*

¹⁴ *Hospital Bed Usage and Availability*, Arizona Department of Health Services, <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php> (last visited Jun. 28, 2020).

¹⁵ Maria Poletta, *Arizona Gov. Doug Ducey presses for Public to Stay at Home*, AZCENTRAL.COM, <https://www.azcentral.com/story/news/local/arizona-health/2020/06/25/arizona-governor-doug-ducey-update-covid-19/3258947001/> (last updated June 25, 2020).

¹⁶ *Supra* note 11.

¹⁷ ARIZ. EXEC. ORDER NO. 2020-43 (June 29, 2020).

¹⁸ ARIZ. EXEC. ORDER NO. 2020-44 (June 29, 2020).

16. On June 29, 2020, hospitals in Arizona were told to activate their crisis standard of care, which allows hospitals to put patients into categories to prioritize the allocation of medical supplies to patients with a higher chance of survival.¹⁹

17. Kansas, New York, New Jersey, and Connecticut have issued mandatory quarantine orders from individuals traveling from Arizona.²⁰

18. Arizona is facing one of the worst COVID-19 surges in the country.²¹

A. The Covid-19 Pandemic has a Disparate Impact on Minorities in Arizona.

19. COVID-19 has disparately impacted minorities in Arizona, including Latinos and Native Americans.²²

20. On May 18, 2020, CNN reported that the Navajo Nation had the highest rate per capita of coronavirus infection rate in the United States.²³

¹⁹ *What do Governor Ducey's Latest Actions to Combat COVID-19 mean?*, ABC15 ARIZONA, (June 29, 2020) <https://www.abc15.com/news/coronavirus/what-do-governor-duceys-latest-actions-to-combat-covid-19-mean>;

²⁰ Jessica Goodman, *Multiple states now require Arizonans to quarantine after arriving in state*, AZFAMILY.COM (June 24, 2020), https://www.azfamily.com/news/continuing_coverage/coronavirus_coverage/kansas-to-require-arizonans-to-quarantine-after-arriving-in-state/article_1317a1b8-b4a3-11ea-9d1b-a759a0240203.html; Stephanie Olmo, *Arizona travelers headed to New York, New Jersey and Connecticut asked to quarantine for 14 days*, FOX10 PHOENIX (June 25, 2020), <https://www.fox10phoenix.com/news/arizona-travelers-headed-to-new-york-new-jersey-and-connecticut-asked-to-quarantine-for-14-days>.

²¹ *Arizona's Main COVID Lab Running Behind as Demand for Tests Soars to Twice Capacity*, REUTERS (June 23, 2020), <https://www.reuters.com/article/us-health-coronavirus-testing-arizona/arizonas-main-covid-lab-running-behind-as-demand-for-tests-soars-to-twice-capacity-idUSKBN23U3C8> (“Arizona reported 17,000 new cases last week, a 90% increase, with 20% of tests coming back positive.”).

²² *Data Dashboard*, ARIZONA DEPARTMENT OF HEALTH SERVICES, <https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/covid-19/dashboards/index.php> (last visited June 29, 2020) (As of June 19, 2020, the Arizona Department of Health Services reported 25% of confirmed cases of COVID-19 are Latino individuals and 8% are Native Americans).

²³ Hollie Silverman et al., *Navajo Nation surpasses New York state for the highest Covid-19 infection rate in the US*, CNN, <https://www.cnn.com/2020/05/18/us/navajo-nation-infection-rate-trnd/index.html> (last updated May 18, 2020).

21. On June 17, 2020, the Navajo Department of Health issued a Public Order for two 57-hour weekend lockdowns based on the high infection rate of COVID-19 in the Navajo Nation.²⁴

22. Administration of the exam during a pandemic will no doubt have a disparate impact based upon race and ethnicity.

B. Hardships faced by Applicants During the Pandemic.

23. Throughout the pandemic, Applicants have experienced hardships creating profound inequity that must not be ignored. Such hardships include:

- a. Financial stress and housing uncertainty from income loss and employment uncertainty;
- b. Increased child-care responsibilities due to school closures and limited child care availability;
- c. Obligation to support family and friends who suffered job loss or who have heightened risk from COVID-19;
- d. Mental health impacts, such as anxiety, depression, grief resulting from social isolation, fear of complications from COVID-19, and compliance with public health recommendations;
- e. Lack of appropriate study space from closure of places of public gathering, including libraries, and family members forced to work from home;
- f. Increased financial challenges for out of state Applicants who are required to be in Arizona two weeks prior to the test. Out of State Applicants are also at a higher

²⁴ Navajo Nation re-implements 57-hours weekend lockdown as COVID-19 cases spike throughout Arizona, NAVAJO HOPI OBSERVER (June 17, 2020), <https://www.nhnews.com/news/2020/jun/17/navajo-nation-re-implements-57-hours-weekend-lockd/>.

risk of contracting Covid-19 when traveling to and from the state to take the test and;²⁵

- g. Fear of sitting for the Bar Exam due to pre-existing health conditions including, but not limited to, being immunocompromised, asthma, and heart conditions.

24. Applicants should not be asked to choose between their health or sitting for the exam to receive their licensure.

C. The Planned Exam Administration is Uncertain, Unsafe, and Disparately Impacts Applicants.

25. The Board plans to require Applicants to sit in large groups for seven hours over the course of two days.

26. The Board's plan places examinees at undue risk of contracting or spreading COVID-19.²⁶ Further, this undue risk presents serious concern to Applicants who are at an increased risk of severe illness from COVID-19 or who live with or care for immunocompromised or at-risk persons.²⁷

27. COVID-19 is highly infectious. The disease spreads quickly throughout the population. The disease resulted in widespread infection among people in large gatherings²⁸ and

²⁵ Admin Order No. 2020-78 (May 14, 2020), <https://www.azcourts.gov/Portals/26/admis/2020/AO2020-078.pdf?ver=2020-05-18-173323-103>.

²⁶ Terry Gross, *Amid Confusion About Reopening, An Expert Explains How To Assess COVID-19 Risk*, NPR (June 17, 2020), <https://www.npr.org/2020/06/17/879255417/> (comparing indoor and outdoor settings and risk of COVID-19, where in an indoor setting, the viral aerosolized particles a "person is breathing in that conference room is going to build up over time. And so, yes, you are going to be a greater risk in that kind of a setting.").

²⁷ Centers for Disease Control and Prevention, *Coronavirus Disease 2019: Groups at Higher Risk for Severe Illness*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/groups-at-higher-risk.html> (last updated May 14, 2020).

²⁸ Saira Baloch et al., *The Coronavirus Disease 2019 (COVID-19) Pandemic*, 250(4) TOHOKU J. EXP. MED. 271-278 (2020).

in areas of prolonged air exchange.²⁹ It is precisely for these reasons that the Governor limited gatherings and closed places of public accommodation.

28. The Board modified the Bar Exam administration in light of these concerns. However, the modifications are insufficient to ensure safe administration and mitigate COVID-19's disparate impact on Applicants. The Board's plan is not supported by public health guidelines or current scientific knowledge of how the disease spreads. Large groups pose a risk to public health, particularly in an indoor setting.³⁰ While a cloth mask requirement is intended to reduce the likelihood of spreading the virus, a cloth mask does not eliminate the risk.³¹

29. Furthermore, as many individuals are asymptomatic carriers of COVID-19, temperature checks and health screenings are insufficient to detect such individuals at the testing site.³²

²⁹ Lisa Brosseau, *COMMENTARY: COVID-19 Transmission Messages Should Hinge On Science*, CIDRAP NEWS (March 16, 2020), <https://www.cidrap.umn.edu/news-perspective/2020/03/commentary-covid-19-transmission-messages-should-hinge-science>; see also Gross, *supra* note 25.

³⁰ Gross, *supra* note 25 (explaining longer presence indoors with others leads to greater risk of COVID-19 infection).

³¹ World Health Organization, *Advice on the Use of Masks in the Context of COVID-19* (June 5, 2020), WHO Reference Number: WHO/2019-nCov/IPC_Masks/2020.4 (recommending that non-medical fabric masks should have a minimum of three layers of differing materials, and should be promptly changed when soiled or wet); Center for Infectious Disease Research and Policy, *The Osterholm Update: COVID-19: Special Episode on Masks and Science* (June 3, 2020), https://www.cidrap.umn.edu/sites/default/files/public/downloads/special_episode_masks_6.2.20_0.pdf ("currently there is inadequate information to answer critical questions about how well cloth masks protect anyone from being infected or infecting others."); *COVID-19: How Much Protection Do Face Masks Offer?*, MAYO CLINIC (May 28, 2020), <https://www.mayoclinic.org/diseases-conditions/coronavirus/in-depth/coronavirus-mask/art-20485449> (recommending to not "use face masks as a substitute for social distancing."); see also *Use of Respirators, Face Masks, and Cloth Face Coverings in the Food and Agriculture Sector During Coronavirus Disease (COVID-19) Pandemic*, U.S. FOOD AND DRUG ADMINISTRATION (April 24, 2020), <https://www.fda.gov/food/food-safety-during-emergencies/use-respirators-facemasks-and-cloth-face-coverings-food-and-agriculture-sector-during-coronavirus> (noting "[c]loth face coverings are only intended to help contain the wearer's respiratory droplets from being spread. . . ." And "[d]isposable face masks . . . do not protect the wearer from breathing in small particles . . .").

³² Dr. Anthony Fauci, the current director of the National Institute of Allergy and Infectious Diseases, stated, "[e]vidence shows that 25%-45% of infected people don't have symptoms. And we know from epidemiological studies they can transmit to someone who is uninfected even when they're without symptoms," *Fauci says the WHO's Comment on Asymptomatic Spread is Wrong. Here's the Difference Between Asymptomatic and Pre-Symptomatic Spread*, CNN <https://www.cnn.com/2020/06/09/health/asymptomatic-presymptomatic-coronavirus-spread-explained-wellness/index.html> (last updated June 10, 2020).

30. Courts across the country recognize physical safety is of utmost importance during this time. Notably, Washington, Utah, and Oregon Supreme Courts granted emergency diploma privilege due to these exceptional, dangerous, and unjust circumstances.

31. Applicants should not be forced to risk their physical health and safety, nor that of their community to take this examination when emergency diploma privilege is a safer alternative.

II. Petitioners respectfully request that the Court grant Applicants Optional Diploma Privilege.

32. Diploma privilege is sufficient for bar admission. *See* Wisc. Sup. Ct. R. 40.03 (1979); *Order Granting Diploma Privilege and Temporarily Waiving Admission Practice & Practice Rules*, No. 25700-B-630 (Wash. June 12, 2020) (**Exhibit A**); *Order for Temporary Amendments to Bar Admission Procedures During COVID-19 Outbreak* (Utah Apr. 21, 2020) (**Exhibit B**).

33. American Bar Association's accreditation of law schools and the Arizona Rules of Professional Responsibility are the state's primary and secondary safeguards against unfit practitioners.

34. The vast majority of Arizona law graduates pass the Exam on their first attempt. Last year, Sandra Day O'Connor College of Law graduates had an 88% bar passage for first time takers³³ and the University of Arizona James E. Rogers College of Law had a similarly high bar passage.³⁴

³³ ASU Law again No. 1 in state for bar passage, ARIZONA STATE UNIVERSITY SANDRA DAY O'CONNOR COLLEGE OF LAW (October 28, 2019), <https://law.asu.edu/asu-law-again-no-1-state-bar-passage>.

³⁴ *July 2019 Examination Results*, COMMITTEE ON EXAMINATIONS, https://www.azcourts.gov/Portals/26/admis/2019/AZUBE_719StatsRevised.pdf?ver=2019-12-31-111228-627 (last updated Dec. 30, 2019).

35. Last year the overall pass rate for first time takers of the Arizona Bar Exam was over 78%.³⁵

36. Delaying the exam is insufficient to address these exceptional circumstances nor the immediate need for legal practitioners to respond to them.

37. Delaying the examination is unlikely to mitigate the risk of COVID-19 exposure. Experts have expressed the likelihood of resurgence of the disease in future waves. Likewise, delaying the examination would cause community hardship such as delayed employment for applicants and a shortage of new lawyers at a time when legal counsel is desperately needed.

38. Delaying the examination would also cause financial hardship for applicants. Most applicants saved enough funds to make it through the average two month study time needed for the bar. Applicants do not have funds beyond for continued study time if the Bar Exam is delayed.

39. Furthermore, Applicants' student loans will begin to be due in October of 2020.³⁶

40. Extended supervised practice is an insufficient substitute to bar admission and the full privileges and responsibilities of a licensed practicing attorney.

41. Extended supervised practice would continue the financial burden on Applicants because most Applicants would likely not be paid the salary of an attorney, but likely that of a law clerk.

42. Moreover, current supervised practice rules in Arizona do not relieve the requirement of bar passage to attain attorney licensure. Supervised practice in lieu of full licensure is an

³⁵ *Id.*

³⁶ See *Here's what's in the \$2 Trillion Coronavirus Stimulus Bill*, CNBC (Mar. 25, 2020), <https://www.cnbc.com/2020/03/25/coronavirus-stimulus-bill-updates-whats-in-the-2-trillion-relief-plan.html> (stating the coronavirus stimulus bill included a provision suspending student loan payments through September 30, 2020, but payments will begin to be due for Applicants starting October 1, 2020).

insufficient substitute for law school graduates who will still be required to study for and pass the Bar Exam in the midst of active client representation facilitated by the supervised practice rules.

43. More importantly, Applicants have not been assured there will be an equitable path to full licensure should the July administrations be canceled due to COVID-19.³⁷

44. Diploma privilege would enable a new class of lawyers to begin their advocacy careers by supporting their struggling communities. This includes helping people with applications for unemployment benefits, eviction and foreclosure procedures, state and federal public benefits, health insurance claims, and bankruptcy proceedings.

45. Diploma privilege will mitigate challenges faced by Applicants from the pandemic by allowing Applicants to maintain pending employment offers and to financially support themselves and their families.

III. In Addition to Granting Applicants Optional Diploma Privilege, Petitioners respectfully request that the Court decrease the UBE minimum passing score to 266.

46. As stated previously, Washington Supreme Court granted optional diploma privilege to Applicants currently registered for the July 2020 Bar Exam, and granted the option of taking the Bar Exam in July to those still wishing to receive a Uniform Bar Exam score.³⁸

47. This option reduces the total number of test takers, making it more feasible to administer an exam that complies with CDC recommendations, as well as allows those especially affected by the pandemic to receive diploma privilege.

³⁷ See Administrative Order No. 2020-78, *Requirements for a 2020 Uniform Bar Exam*, Arizona Supreme Court (“In the event guidance from public health authorities dictates that a 2020 Uniform Bar Exam cannot safely be administered to all applicants who timely register for and wish to take the examination or the venue does not allow social distancing for all who have applied to take the exam, Committee staff will prioritize applicants based on registration date”).

³⁸ No. 25700-B623 *Order Temporarily Modifying Admission and Practice Rules*, (Wash. 2020).

48. On June 29, 2020, the Oregon Supreme Court, granted diploma privilege, and also decreased its minimum passing score from 274 to 266.³⁹

49. The Arizona Supreme Court has complete authority to promulgate the rules for admission for Applicants, which includes decreasing the UBE minimum passing score from 273 to 266 for the July 2020 Bar Exam.⁴⁰

50. Nearly half of UBE jurisdictions require a minimum passing score of 266 or less; these jurisdictions include Maryland and New York.⁴¹ Thus, this one-time deviation is consistent with other states' minimum passing score.

51. A deviation from the current UBE passing score of 273 is warranted because of the profound impact COVID-19 has had on Applicants' ability to study for the Bar Exam.

IV. Petitioners Respectfully Request that the Court Grant Applicants an Optional Diploma Privilege, Decrease the UBE Passing Score to 266, and Take on the Petition to Open for Public Comment.

52. In light of the exceptional circumstances caused by COVID-19, Petitioners respectfully request that the Court, in addition to administering the July bar exam, permit **first-time applicants** to seek an **optional diploma privilege**.

53. Additionally, Petitioners respectfully request that the Court decrease the UBE minimum passing score from **273** to **266** for the July 2020 Bar Exam.

54. Finally, Petitioners ask the Court to take up the petition and open it to the public for comment.

55. Applicants have submitted impact statements, listed in **(Exhibit C)**.

³⁹ Joe Patrice, *Oregon Adopts Diploma Privilege*, ABOVE THE LAW (June 30, 2020), <https://abovethelaw.com/2020/06/oregon-adopts-diploma-privilege/>.

⁴⁰ National Conference of Board Examiners, *Minimum Scores*, NCBE, <http://www.ncbex.org/exams/ube/score-portability/minimum-scores/> (last visited June 30, 2020).

⁴¹ *Id.* (Noting 17 of the 37 UBE jurisdictions have a minimum passing score of 266 or less).

56. Applicants and Non-Applicants who have signed on in support of this petition for emergency diploma privilege are listed in (**Exhibit D**).

RESPECTFULLY SUBMITTED this 30th Day of June, 2020.

By:

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EXHIBIT A

FILED
SUPREME COURT
STATE OF WASHINGTON
JUNE 12, 2020
BY SUSAN L. CARLSON
CLERK

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF STATEWIDE RESPONSE)	ORDER GRANTING
BY WASHINGTON STATE COURTS TO THE)	DIPLOMA PRIVILEGE AND
COVID-19 PUBLIC HEALTH EMERGENCY)	TEMPORARILY MODIFYING
)	ADMISSION & PRACTICE
)	RULES
)	
)	No. 25700-B-630
)	
)	
)	

WHEREAS, the court recognizes the extraordinary barriers facing applicants currently registered to take the bar examination in either July or September 2020, or the limited license legal technician (LLLT) examination in July 2020; and

WHEREAS, the Court has reviewed Washington's Admission and Practice Rules (APRs) to consider whether any of its provisions should be modified to accommodate current applicants who have received juris doctorate degrees from ABA accredited law schools or have completed all requirements to sit for the July 2020 LLLT exam;

The Court by majority hereby enters the following order establishing temporary modifications to some provisions of the current APRs:

- 1) APR 3 and 4 are modified to the extent that applicants for admission to practice law who are currently registered for either the July or September 2020 bar examination and who have received a Juris Doctorate degree from an ABA accredited law school, and applicants currently registered to take the LLLT examination scheduled for July 2020, are granted the option of receiving a diploma privilege to practice in

ORDER GRANTING DIPLOMA PRIVILEGE AND TEMPORARILY MODIFYING
ADMISSION AND PRACTICE RULES

No. 25700-B-630

Washington. The bar examinations in July and September 2020 will still be offered for those who do not qualify for the diploma privilege and those who wish to take the exam to receive a Uniform Bar Exam (UBE) score.

- 2) The diploma privilege option will be available to applicants currently registered to take the examinations who are taking the tests for the first time and those who are repeating the tests.
- 3) The court delegates to WSBA the appropriate discretion to determine the timelines for eligible applicants to notify WSBA of their intent to receive the diploma privilege in lieu of taking an examination, and whether or to what extent any registration fees may be refunded.

DATED at Olympia, Washington this 12th day of June, 2020.

For the Court


CHIEF JUSTICE

EXHIBIT B

IN THE SUPREME COURT OF THE STATE OF UTAH

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In re: Matter of Emergency Modifications to
Utah Supreme Court Rules of Professional Practice,
Rules Governing Admission to the Utah State Bar

ORDER FOR TEMPORARY AMENDMENTS TO BAR ADMISSION PROCEDURES DURING COVID-19 OUTBREAK

Based upon the Utah Supreme Court's constitutionally granted authority to regulate the practice of law in Utah, and in consideration of the public health threat currently posed by the novel infectious coronavirus (COVID-19), the Utah Supreme Court orders that the Bar Examination passage requirement be modified on an emergency basis for certain eligible Qualified Candidates as defined herein.

I. Definitions

- a. Unless otherwise defined in this Order, all terms defined in Rule 14-701 of the Supreme Court Rules of Professional Practice are hereby incorporated into this Order.
- b. "Qualified Candidate" means a person who:
 1. Is either:
 - A. A law school graduate who:
 - i. Has graduated by June 30, 2020 with a First Professional Degree in law from an ABA-approved law school that had an overall first-time taker bar examination passage rate in 2019 of 86% (rounded to the nearest whole number) or greater; and
 - ii. Has not, as of the date of this Order, previously sat for any bar examination

in any state or territory in the United States and will not be taking the bar examination in any state or territory in the United States in July 2020; or

B. An attorney admitted by bar examination to another jurisdiction and meets all requirements of Rule 14-704(a) except for passing the Utah Bar Examination; and

2. Submitted an application for the Utah Bar Examination on or before April 1, 2020, in accordance with the information and instructions on the admissions website, including all fees and necessary application forms, along with any required supporting documentation, character references, and a photo. Late or incomplete applications will not be accepted.

c. “Supervised Practice” means the 360 hours of supervised legal practice that a Qualified Candidate must complete under the supervision of a Supervising Attorney in accordance with and under section III of this Order.

d. “Supervising Attorney” means a person (or persons) who supervises the Qualified Candidate in accordance with and under section III of this Order and is either:

1. An attorney who has:

A. An active Utah Bar license,

B. A minimum of 5 years as a licensed attorney in any U.S. state or territory,

C. A minimum of 2 years as a licensed attorney in the State of Utah, and

D. No record of public discipline in any jurisdiction in the United States; or

2. A state court or federal court judge.

II. Emergency Admission of Qualified Candidates

- a. Qualified Candidates who meet all the requirements of subsection II(b) by no later than December 31, 2020, shall be admitted to the Utah Bar without passing the Utah Bar Examination. This admission will be effected as soon as practically possible.
- b. The burden of proof is on the Qualified Candidate to establish by clear and convincing evidence that she or he:
 - 1. Is a Qualified Candidate as defined in subsection I(b);
 - 2. Meets all requirements of Rule 14-703 (if applied to take the Bar Examination as a Student Applicant) or Rule 14-704(a) (if applied to take the Bar Examination as an Attorney Applicant), except for passing the Utah Bar Examination;
 - 3. Has passed or does pass the Multistate Professional Responsibility Examination by no later than December 31, 2020 unless no MPRE is offered in 2020 after the publication of this Order, in which case Qualified Candidates who have not yet passed the MPRE but have fulfilled all other requirements for admission under this Order will be given an extension to pass the MPRE until after scores are published following the first MPRE administered in 2021;
 - 4. Has provided a completed criminal background check by no later than December 31, 2020;
 - 5. Has submitted proof of law school graduation by June 30, 2020; and
 - 6. Has completed 360 hours of Supervised Practice by no later than December 31, 2020.
- c. Nothing herein shall prevent a law school graduate who does not meet the definition of a Qualified Candidate from performing legal services under Rule 14-807 of the Supreme Court Rules of Professional Practice.

III. Supervised Practice Requirement

- a. The purpose of the Supervised Practice requirement is to provide eligible Qualified Candidates with supervised training in the practice of law and to assist the Bar and the judiciary in discharging their responsibilities to help create a just legal system that is accessible to all.
- b. Subject to the inherent power of each judge to have direct control of the proceedings in court and the conduct of attorneys and others who appear before the judge, the courts of Utah are authorized to allow eligible Qualified Candidates to participate in matters pending before the courts consistent with this Order.
- c. All time spent in any activity related to developing the Qualified Candidate's legal competence (whether paid, unpaid, pro bono, or low bono) shall be counted toward the 360-hour requirement including, but not limited to, representing clients, providing direct assistance and counsel to judges, advising businesses and their employees, developing or implementing policies and practices for nonprofit organizations or government agencies, and meeting with the Supervising Attorney or attorneys for whom the Supervising Attorney has delegated direct supervision under subsection III(e). CLE courses and other professional trainings or workshops as would be typical of an attorney in that area of practice may be counted toward the 360-hour requirement but shall not exceed more than 10% of the Qualified Candidate's total hours. The determination of whether a specific position or activity qualifies for the purpose of this provision shall be at the Supervising Attorney's discretion.
- d. Subject to all applicable rules, regulations, and statutes, a Qualified Candidate may engage in the following activities during the 360 hours of Supervised Practice, so long as the client and Supervising Attorney consent in writing to each activity, and the Supervising Attorney remains fully responsible for the manner in which the activities are conducted:
 - 1. Negotiate for and on behalf of the client, subject to the Supervising Attorney's final approval, or give legal

advice to the client, provided that the Qualified Candidate:

- A. obtains the Supervising Attorney's approval regarding the legal advice to be given or plan of negotiation to be undertaken by the Qualified Candidate; and
 - B. performs the activities under the general supervision of the Supervising Attorney.
- 2. Appear on behalf of the client in depositions, provided that the Qualified Candidate has passed a course in evidence and performs the activity under the direct supervision and in the personal presence of the Supervising Attorney.
- 3. Appear in any court or before any administrative tribunal in this state. In order to participate in any evidentiary hearing, the Qualified Candidate must have passed a course in evidence, and in the case of a criminal evidentiary hearing, must have also passed a course in criminal procedure. The Supervising Attorney's and the client's written consent and approval, along with a law school certification regarding the required coursework, must be filed in the record of the case and must be brought to the attention of the judge of the court or the presiding office of the administrative tribunal. In addition, the Qualified Candidate must orally advise the court at the initial appearance in a case that he or she is certified to appear pursuant to this rule. A Qualified Candidate may appear in the following matters:
 - A. *Civil Matters.* In civil cases in any court, the Supervising Attorney is not required to be personally present in court if the person on whose behalf an appearance is being made consents to the Supervising Attorney's absence.
 - B. *Felony or Class A Misdemeanor Criminal Matters on Behalf of the Prosecuting Attorney.* In any felony or Class A misdemeanor prosecution

matter in any court, the Supervising Attorney must be personally present throughout the proceedings.

- C. *Infraction of Class B or Class C Misdemeanor Criminal Matters on Behalf of the Prosecuting Authority.* In any infraction or Class B or Class C misdemeanor matter in any court with the Supervising Attorney's written approval, the Supervising Attorney is not required to be personally present in court; however, the Supervising Attorney must be personally present during any Class B or Class C misdemeanor trial.
- D. *Felony or Class A Misdemeanor Criminal Defense Matters.* In any felony or Class A misdemeanor criminal defense matter in any court, the Supervising Attorney must be personally present throughout the proceedings.
- E. *Infraction or Class B or Class C Misdemeanor Criminal Defense Matters.* In any infraction or Class B or Class C misdemeanor criminal defense matter in any court, the Supervising Attorney is not required to be personally present in court, so long as the person on whose behalf an appearance is being made consents to the Supervising Attorney's absence; however, the Supervising Attorney must be personally present during any Class B or Class C misdemeanor trial.
- F. *Appellate Oral Argument.* In any appellate oral argument, the Supervising Attorney must be personally present and the court must give specific approval for the Qualified Candidate's participation in that case.
- G. *Indigent defense.* Provide assistance to indigent inmates of correctional institutions or other persons who request such assistance in preparing applications and supporting documents for post-conviction relief, except

when the assignment of counsel in the matter is required by any constitutional provision, statute, or rule of this Court; if there is an attorney of record in the matter, all such assistance must be supervised by the attorney of record, and all documents submitted to the court on behalf of such a client must be reviewed and signed by the attorney of record and the Supervising Attorney.

4. Perform other appropriate legal services, but only after prior consultation with the Supervising Attorney.
 5. Notwithstanding the terms above, the court may at any time and in any proceeding require the supervising attorney to be personally present for such period and under such circumstances as the court may direct.
- e. The Supervising Attorney is responsible for ensuring that the Supervised Practice of the eligible Qualified Candidate complies with this Order. The Supervised Practice requirement provides an opportunity for the Supervising Attorney to demonstrate professionalism and impart principles of ethics, civility, and service that should characterize all members of the Utah Bar. This training can be accomplished only if the Supervising Attorney is actively involved in the process. The Supervising Attorney may delegate direct supervision of a Qualified Candidate to another attorney who, in the professional judgment of the Supervising Attorney, would effectively promote these goals. If the Supervising Attorney delegates direct supervision to another attorney, communication between and among the two attorneys and the Qualified Candidate should be regular and substantive. Pro bono programs preapproved by the Utah State Bar's Access to Justice program effectively promote the goals of the Supervised Practice requirement, and Supervising Attorneys shall count hours served by the Qualified Candidate in such programs without the need of express delegation or regular and substantive communication with any attorneys directly supervising the Qualified Candidate in those programs.

- f. A Qualified Candidate's eligibility to provide services under this Order will terminate immediately upon the Bar's determination that the Qualified Candidate lacks the requisite character and fitness to practice law in Utah.
- g. Prior to beginning the 360 hours of Supervised Practice, the Qualified Candidate must:
 - 1. Obtain the consent of a Supervising Attorney,
 - 2. Provide the Bar Admissions' office with the Supervising Attorney's name, and
 - 3. Provide the Bar Admissions' office with a signed and dated letter from the Supervising Attorney stating that she or he is qualified and willing to serve as a Supervising Attorney and has read this Order and agrees to comply with its conditions.
- h. A Qualified Candidate's 360 hours shall be recorded in one-tenth hour increments and submitted pursuant to the requirements set forth by the Bar Admissions' office.
- i. Upon completing 360 hours of Supervised Practice, the Qualified Candidate must provide the Bar Admissions' office with a statement from the Supervising Attorney attesting to the veracity of the Qualified Candidate's submitted record. If the Qualified Candidate has more than one Supervising Attorney, each Supervising Attorney shall sign the portion of the record that he or she supervised.
- j. Completion of the 360 hours of Supervised Practice required for admission under this Order does not excuse the Qualified Candidate from completing the requirements currently imposed upon newly admitted attorneys, including the requirements of the New Lawyer Training Program (if applicable), and the 360 hours shall not be counted toward any post-admission requirements.

IV. The July 2020 Bar Examination

- a. No Bar Examination shall be administered in Utah in July 2020.

- b. The Utah Supreme Court intends that the Bar Examination be scheduled at the earliest possible date in 2020 after the public health crisis abates and the Bar Examination can be administered safely.
- c. Persons who are currently scheduled to sit for the July 2020 Bar Examination in Utah who do not qualify for admission under the emergency modifications outlined in Section I or are unwilling to do so may elect one of the following options for proceeding with their application:
 - 1. Withdraw the application for a full and complete refund of all application fees paid;
 - 2. Transfer the application and fees, without further charge, to the February 2021 Bar Examination or the July 2021 Bar Examination; or
 - 3. Maintain a pending application to remain registered for the Bar Examination in the event a Bar Examination is scheduled to take place at some later point in 2020. If such a Bar Examination does not take place, the individual will be able to select from option (1) or (2) above.
- d. Nothing herein shall prevent a Qualified Candidate admitted pursuant to this Order from applying to take a future Bar Examination, but the applicant will be required to submit a new application and fees.

DATED this 21st day of April, 2020.


Matthew B. Durrant
Chief Justice

EXHIBIT C

Applicant Impact Statements

Impact Statement 1

“I currently have COVID-19. I am unable to study for the bar exam in this condition. I support diploma privilege for myself and others, who have and will have the disease in these next few weeks. In addition, the chances of transmission during the exam are practically guaranteed. Diploma privilege is the only just option in this unprecedented situation.”

Impact Statement 2

“My 24-year old brother died due to COVID early this year. It has had a strong impact on my immediate family, and I have seen firsthand what can happen even if all the right precautions are taken. I plan to take the Arizona bar, but sitting in one place with hundreds of other students during a time when the cases in Arizona are as bad as anywhere in the world leaves me with a lot of worries about my health and the health of others.”

Impact Statement 3

“My whole immediate family of 10 Latinos fell ill to covid19, two died, and I am expected to carry the financial burden. I almost had a job, but it required a bar card, which I can't afford because I don't have money for the fees. Please act now.”

Impact Statement 4

“My mother and grandmother were recently diagnosed with COVID-19. They are the only family I have, and I care about them deeply. My grandmother is 81 and my mother is 63. They both have serious preexisting medical conditions. I am terrified as to what this disease will do to them, as their health has declined incredibly just in the past few days. Normally, when one of us is ill, we look after the other. Being that they are both sick, I want to do all I can to take care of them and their needs. However, with the upcoming bar exam, I cannot be exposed to someone with COVID-19, without the repercussion being the very real possibility of me now being allowed to sit for the bar exam. Or, myself contracting the disease, and not being able to sit for the bar exam. I understand we have the option to defer to February. But frankly, I cannot financially afford to do so. I am now having to make the choice between likely losing my mother and grandmother, without seeing them again, because I am fearful of the repercussions that will have on my bar examination status. Or, deferring the exam until February which would result in me being unemployed for another 6 months and becoming financially bankrupt. I understand adversity affects everyone differently. But please consider how seriously this disease is affecting everyone. I am not one to ask for accommodations, nor any special treatment. I lost my grandfather the first week of law school, and with various complications due to my autoimmune disease, I was hospitalized seven times during my law school career. Please understand that for some students, the choice that this test has resulted in is choosing between becoming financially bankrupt, or caring for the only family we have. This year has tried the class of 2020 in unfathomable ways.”

Impact Statement 5

“I am writing in support of the petition to waive the bar examination requirement for admittance to the Arizona state bar. I am a member of the Navajo Nation and a graduate of the Arizona State University, Sandra Day O'Connor College of Law class of 2020. I currently reside on the Navajo Nation reservation in northern Arizona. I currently reside in a multi-generational home, with two elders who are both over 75 years old, and who have underlying health conditions. Members of the Navajo Nation are more likely to live in multigenerational homes without basic resources, like running water, because of the lack of adequate resources provided to our communities. Myself and my family have been taking all the precautions we can to avoid infection which has been extremely stressful, as the Navajo Nation has become a national hotspot. I have Navajo family members and friends have died from COVID-19. It has been difficult for everyone living on the reservation. I have never been more aware of my classmates privileges and my lack of.

It is extremely difficult for me to risk the possibility of infection so I can sit for the bar. I should not have to risk my health, my families' health, and my communities' health just to sit for the bar when other options are available. Self-isolating for two weeks is also not a option for me because, as previously mentioned, I live in a multigenerational home and the possibly of transmitting the infection is high, if I am exposed. It has already been taxing on my mental health because I've seen how contagious and easily transmitted it is. It is unfortunate that I have to put the very community I attended to law school to help, at-risk.

I plead with you, for the sake of myself and my family members, that you waive the bar examination requirement or allow us to take the exam online. Thank you.”

Impact Statement 6

“The idea of an in-person bar exam right now is frightening. I am living with my at-risk father and mother as I just graduated and moved to Arizona. My best friend tested positive for COVID 12 days ago. We work out together, including the morning before he tested, so I have massive exposure. I immediately got a test but was forced to return home to quarantine, exposing my parent. I do not receive a paycheck until I am admitted and do not have the money for a hotel. Shortly after my friend tested positive, my younger brother who moved home due to COVID got a high fever and tested positive. Sunday night my mother started feeling sick, constantly puking and burning up with a high fever among other COVID symptoms. My quarantine number reset another 14 days.”

Impact Statement 7

“I have a wife and a two-month old daughter. Both of them have asthma. So if Covid-19 finds its way into our house, it could very well be a death sentence for both of them.”

Impact Statement 8

“Forcing me into a room with other exhausted, anxious, and immunocompromised examiners is a gross miscarriage of power. After months of diligent social distancing, sheltering-in-place, and hand washing—the Arizona Supreme Court is exposing me to an unjustifiable risk of bringing COVID back to my family.”

Impact Statement 9

“During this time we need flexibility and understanding. Native students, first generation students, students that are parents, and minority students are all affected extremely adversely during this time with little to no safety net. Diploma privilege is the only way to ensure that students that come from all walks of life have a fair path towards a career that has taken years of hard work and dedication to make a reality.”

Impact Statement 10

“This pandemic and the issues revolving around the bar exam greatly impact me and my family. With the recent increase in COVID cases in Arizona, the gathering of individuals in one place will put me and my family at a greater risk of becoming sick and thus inhibit me and my husband's ability to meet our financial needs from missed work, assuming we don't have serious complications from being sick. In addition, my new job is contingent on me being barred in Arizona and any delay will impact my ability to begin work and to provide for my family. My husband and son's livelihoods depend on me starting my new job and putting myself at risk during the in-person July exam or delaying my start date because of a postponed bar exam will disparately impact my ability to provide for my family. Not to mention that my school loans will be due this fall which will not be feasible if I am not able to work as an attorney. Given that my career and my family's livelihood is at the mercy of the Arizona Supreme Court and the unique circumstances from this pandemic, I think the best option is to grant diploma privilege to those of us who have applied already and in the alternative off a July online exam. Thank you all for your time and consideration.”

Impact Statement 11

“Those of us who are parents have seen the last six months change the nature of our relationships with our children, many of whom themselves are struggling to understand a confusing and scary world. They miss their schools and friends and routines. Whatever work we did as parents before became all the more intense at the onset of the pandemic. While it's certainly a labor of love, it's definitely still labor - and a lot of it, more than it would be in any other year right before the bar exam. Those of us who have jobs have found that the demands may have increased. If you work in a pandemic-effected environment (for me, that's higher education) the volume of emailing, zooming, and strategizing, along with the emotional labor of helping those who are nervous and worried, has increased dramatically. We're also doing this 'more work' in less-conducive spaces - say, while sharing a couch with a snoring dog and an all-limbs teenager, struggling with a overheating laptop that doesn't have the same capacity as the work computer, schvitzing miserably because the desert cooler is no match for Arizona's gazillion-degree weather. Simple tasks that would otherwise take moments become so much more arduous when completed outside of the cool, quiet office. And while having work just now is certainly it's own privilege, there's no question that things are taking longer to accomplish than in years past, competing with critical bar prep time. Those of us who graduated in May did so not with a bang, but with the celebratory equivalent of a whimper. We were all thrown from the learning and service rhythms we'd worked three years to cultivate. Arizona's frankly terrifying recent increase of Covid cases is producing another layer of despair. Under these circumstances, trying to concentrate on the sea of material we need to know to pass the bar feels something between Herculean and Sisyphean. Those of us with our own health concerns have already had to risk Covid exposure in order to get our fingerprints and photos taken and our documents

notarized. We calculate the risk, take our precautions, and hope for the best, but that seems like a sub-optimal approach to health and safety, all things considered. I can't imagine how awful it will be to sit in a room with hundreds of my peers one short month from now, all of us anxious for reasons having nothing to do with the already-stressful bar exam itself. I'll conclude with this: there is no question that times are hard for all of us, and my heart hurts for those who are struggling whatever they're trying to accomplish. But for those of us who are trying to study for the bar right now, I must tell you - it's really, really tough. For this reason, any grace you can muster given the circumstances would be very much appreciated.”

Impact Statement 12

“Please hear our pleas. We are afraid of contracting the virus if we take this exam. We want to work and serve our clients immediately. We want diploma privilege this year and for years to come. Thank you.”

Impact Statement 13

“Requiring applicants to sit for the Bar Exam during a worldwide health crisis is unreasonable and unsafe. I personally will have to travel from out of state to Phoenix which has a much higher rate of COVID-19 cases than where I am currently living. It is absolutely unethical for the Arizona Supreme Court to ask applicants to risk their lives for the Bar Exam when so many other states have changed their test dates.”

Impact Statement 14

“Hosting the bar in person is dangerous and jeopardizes the physical and psychological health of applicants. Arizona currently has one of the worst COVID outbreaks in the country, and at a time when even the Vice President believes large gatherings to be unsafe in the state, I will be asked to pack into a room with hundreds of others from across the state and country, any one of whom could have COVID and not know it. While masks and social distancing are important safety steps, experts agree that the number of people, the indoor nature of a space and the prolonged period of exposure all make contracting COVID more likely. In addition, in order to take this test I will have to travel to Arizona from out of state at a time when Arizona is far less safe than my home state, and stay in the state for two weeks prior to the test at my own considerable expense. If I get sick traveling to take the bar, or get sick because of it, there may not be enough ICU beds in the state for me to get treatment. If I get sick in the run up to the bar, I will lose my chance to practice law here, and will have to find a source of income between now and the February exam. Every step surrounding the bar puts my health and safety at greater unnecessary risk. I have worked very hard to practice law in Arizona, and I am looking forward to practicing here, but I should not have to risk my life to do so when other options are available. Furthermore, at a time when applicants are worried about the health, safety and financial security of themselves and their loved ones, the mere act of preparing for the bar has gone from stressful to nightmarish, and it is far harder to adequately prepare for the test. Hosting a bar in these conditions, even if it could be done safely would take a devastating toll on the mental health of applicants like myself, and would even more adversely impact marginalized applicants who may lack appropriate study spaces, adequate healthcare, or time to prepare if they are forced to take on additional childcare or financial obligations due to the pandemic. These disparities will

exacerbate existing inequalities in our legal system. I also request that any diploma privilege be applied to qualified applicants from outside the state of Arizona.”

Impact Statement 15

“I have had a particularly rough COVID season. It's been painful and personal for a lot of us. I hate that the decision to administer the exam in-person seems to prioritize money over people. It's heart-breaking.”

Impact Statement 16

“I have nowhere to study. The libraries are closed. I’m locked in my room. I have no money until I am admitted. When I called Attorney Admissions concerned that I hadn’t received confirmation of my testing seat, they said it was just due to COVID and the high amount of people coming to Arizona to take the UBE. People from other states with no interest in practicing in Arizona are traveling to sit with us in a convention center for two days. That’s alarming.”

Impact Statement 17

“I don’t know how anyone is expected to prepare for any exam, let alone a pandemic, when less than a month out their best friend, brother and possibly mother are ill from COVID. Even if I could leave the house and go to the library, they’re all closed. I’m just praying that I don’t come down with COVID in mid July, as being delayed to February 2021 would mean I wouldn’t have a job until May 2021.”

Impact Statement 18

“I implore the AZ Supreme Court and the AZ State Bar to consider the consequences this pandemic has brought to those in lower socioeconomic classes. Many of us struggle with finding an adequate place to study, several of us live with immunocompromised individuals, and most of us haven't been able to ignore the social issues that have been happening right outside our door. Holding the bar exam during this unprecedented time is callous and ultimately harmful when the bar exam was created to deter people of color from the profession. The legal profession should not be geared towards the elite.”

Impact Statement 19

“We do appreciate the Order issued in May, but we ask that you consider how the options provided are insufficient. In my case, there are a variety of factors that make delaying my testing preferable. However, my expected job is with a public defender’s office that cannot bring me on board until I have a passing bar result. The limited practice option does not suffice—even if it did, I would not be able to sufficiently study for the bar exam again before the February sitting without seriously burdening my clients. Conversely, even any delay in the exam will delay my start date and my paychecks, making it nearly impossible to continue sustaining basic costs as loan payments come due. Diploma privilege is the only option that will allow the class of 2020 to start their careers appropriately without literally threatening the lives of the students and, more importantly, their vulnerable loved ones. We have seen (and are seeing) how even best efforts across the country have been unable to contain this virus. We implore you to follow Washington’s example and choose your lawyers’ and their loved ones’ safety. Thank you for your time in considering and for the work you do for this state.”

Impact Statement 20

“An in-person bar exam administration poses risks to my health and the health of my family and loved ones. I feel forced to take these health risks to take the bar and keep my employment.”

Impact Statement 21

“As a graduate of ASU, a new mother, and daughter to a terminal cancer patient currently undergoing chemotherapy, I chose not to register for any bar exam in July because if any were to be held during the current pandemic, I would be exposing my family to greater risk of this disease. I would ask that if diploma privilege is granted, it includes all graduates of Arizona law schools for the year 2020 who are willing to pay bar fees and submit an application, even if not currently registered for the July exam.”

Impact Statement 22

“The insurance I purchased through ASU will expire in mid-August. The medication I take costs roughly \$156,000 annually. The pandemic has already caused me uncertainty in gaining employment that would secure health insurance and uninterrupted treatment. Continuing the bar exam until the fall or later would not aid that situation. Moreover, as history has taught us over the past weeks and months, there is no guarantee that safer conditions will exist in the fall. Will the bar then again be postponed? Will diploma privilege then be granted? Much damage will be caused if diploma privilege were granted after postponement for two or three additional

months. The downsides of postponing the bar yet again are so obvious that they require no discussion.

If the bar must be held then I'll take my chances in July 2020 because I have no real choice. Nevertheless, more faith has been lost in the institutions and powers granted to government to protect the rights of individuals when taking the bar exam has been deemed more important than the freedom to exercise religion, among many other rights.”

Impact Statement 23

“I help take care of my widower father and grandfather. I should not have to choose between risking infecting them from a super spreader event and being able to pay off student loans.”

Impact Statement 24

“For a full year, I have been anticipating and preparing (mentally, physically, spiritually, and emotionally) to take the bar exam because I believe in what it stands for. I have sacrificed a lot of time away from my family throughout law school and in the two months that I have already put into studying for the bar exam. Simply put, I want to take the exam. But, with many of my family and friends throughout the state of Arizona and especially on the Navajo Reservation fighting COVID and all the current uncertainty right now, I am now being forced to ask myself, ‘At what expense should I risk getting COVID myself, and giving it to my 7 year old? To my parents? To my baby nieces and nephews?’ I was eager and actually excited to take the exam because again, I truly believe in what stands for. I have already put so much into it, I had saved money to be able to focus solely on studying, with little help from anyone. I sacrificed

along the way just to do it right, this first time because I cannot afford to not pass or to not work - I have a family to take care of and a family that is depending on me to begin work. As a first-generation college student and law student, my family's well-being is dependent on me being able to start work right away. I do not come from a family of wealth, I do not have the luxury of taking time off after the bar or going on vacation because my family depends on me for some of their most basic necessities. With all the uncertainty with COVID, I have gotten very little sleep, I am feeling more and more anxiety, feeling increasingly stressed, and likely making myself more susceptible to illness because of the stresses I have been feeling. Though I believe I am strong mentally and physically, and have overcome so much in my life to be where I am today, the amount of pressure I have felt in the last week is , just as times are today, unprecedented. I underestimated the stresses that COVID would put on me and my family. I fear now, more than I have before, for my own safety and for the safety of my family. To have so many people in one room, traveling in from other states, for two days, 7-8 hours/day - it simply does not seem wise or safe, given the circumstances. I feel I am being forced to choose my future of working as an attorney and taking care of my family over my safety and well-being. It is, to say the very least, a hard decision to make because I do want to take the exam. But between now and the time I take the exam, what if I get COVID? I have taken every precaution I could to stay safe, but what if that is not enough? And I am forced to not take the exam? Many have shown no symptoms at all and if we are forced to be in one room with those who have shown no symptoms, many of are sure to get COVID. Will all the sacrifices I have made be for nothing? What if I do take the exam, and the every day emotional challenges in the end, gets the best of me and I do not pass the bar? I have spent a lot of money, time away from my family, and pushed through these challenging times, simply to come up short. These are concerns that keep me awake at night.

Yes, I could have waited to take the bar exam until February, but when you have a family to support that is dependent on you for their basic necessities, it does not seem like much of a choice at all. These truly are unprecedented times, and for the safety of our state, families and students, it calls for unprecedented solutions. With my utmost humility, thank you for consideration of this petition.”

Impact Statement 25

“This situation has directly impacted my familial relationships, marriage, future plans and has, at this point, been financially ruinous. Notably, the stress, safety and dwindling financial resources have forced my Wife and two young children (ages 1 and 4) to live separately as both sides of our family have been required to support us while I attempt to study for the bar exam. The realization that sitting in a room with many other potential carriers of this virus being wholly undetectable is a reasonable fear. I have two young children, limited financial resources, large student loan obligations and my ability to work and make use of my JD and earn money is being directly prohibited by this bar exam administration. My Wife cannot work because she is the other parent and should she go out and work and contract the virus, then I will be required to watch our children and ignore studying for the bar exam, thus lessening my chance of passing and thus worsening my family's stressful and uncertain future. It is important to also note that day-care for our young children is also not an option because of: (1) dwindling financial resources, and; (2) because again, the children might contract the virus at daycare (assuming a daycare will openly accept given the astronomical rise in cases.) Please, consider this petition. If there was ever a time to look at the reasonability of a particular decision by weighing the totality of the circumstances, it is surely now in this moment in time and history. My Wife, Children and

I want to be together again. More importantly, I want to be safe and I want my family to be safe.
I ask again, Please. Thank you for your time.”

Impact Statement 26

“[ASU’s] graduation was rescheduled for August 1. In light of recent events, it was determined it would not be safe to go forward with those plans. This worries me and my family because the bar exam is scheduled to happen only days before that date.”

Impact Statement 27

“To be in this moment and everybody is all about change, and we let time pass by or we get distracted by something else and think we can drift back when in reality COVID still exists. I’m within the class of people mentioned in this petition and one sense of peace that can be provided is to be granted the diploma privilege. Such relief will allow us to press forward despite the world being on pause. Don’t let my future that I’ve been preparing for be delayed as well. I rather have a privilege to be on the frontline in the legal profession rather than being in a position to further procure economic and health hardships. This privilege will allow us to press forward and help protect others who do not have the privilege to do so. I respectfully request this prayer of relief for us to be granted the diploma privilege.”

Impact Statement 28

“I’m not afraid of failing the bar exam. The material can feel overwhelming, but it’s manageable. I know that I can learn the material. I know that I can pass the exam. It won’t be easy and it won’t be fun, but it’s entirely possible. Bar study itself is not the problem.

The hardest part of my bar preparations has been adjusting to the unexpected realities of life during a global pandemic. The anxiety that comes with doing even simple necessities, like walking my dog, has been exhausting. The uncertainty over whether or not the exam will proceed at all, given how things in Arizona keep getting worse, has been enormously stressful. But the worst part, without question, has been the sense of dread I feel when I think about actually sitting for the exam.

I was warned that I might cry or have breakdowns during bar prep. Aside from one time (while I was learning secured transactions), I have not cried over the material or the study process. I have, however, cried almost every day for three weeks now. I cry every time I think about going to the exam, entering the venue, and sitting in the room to take the test. I cry every time I think about all of the people I know will be taking it with me, and how many of them will be standing and sitting around me throughout the day. I cry every time I think about trying to focus on the exam while wondering if the breath I just inhaled is the one that will infect me with COVID-19.

I’m not scared of failing the exam. I’m scared that simply taking the exam is going to kill me. And that fear is not an exaggeration or an impossibility. It is a very real risk.

I understand that our chosen profession is one with enormous responsibility, and ensuring that we are fit to practice is essential. However, there have to be other ways to achieve the same result without administering an in-person bar exam. There are so many safeguards in place to regulate who becomes an attorney, and so many rules and requirements to maintain the highest standards of who can continue to practice after being admitted, that it just isn't possible that a whole host of unqualified attorneys will suddenly be allowed to run amuck without the bar exam in place to weed them out.

The bar exam will be the first time I have been in a public space, around more than 5 people at once, since March. I've been carefully following the CDC's recommendations to protect myself. Taking the bar exam, even if it is split up into a handful of rooms, will be the single largest exposure I've had to this virus in months.

I'll be waiting in hallways with strangers who may not have been as careful as I have. I'll be processed through airport-like security and temperature screenings, where social distancing will be physically impossible. The points of contact through which the virus can spread will be exponential, and the spread cannot realistically be prevented. If even one person is an asymptomatic carrier, hundreds will be exposed.

I've worked hard, and I'm willing to continue putting in the work necessary to become an attorney. I've considered postponing to February, but I simply can't afford it. I need a job, and I

won't stand a chance competing for jobs with people who are licensed six months before me. I don't have the luxury of choosing my health over my career.

However, I also know that if I take an in-person bar exam in July, there is a legitimate risk that I won't live long enough to find out if I passed. To me, that's an unacceptable risk, and it shouldn't be acceptable to anyone else."

EXHIBIT D

Support of Petition for Emergency Diploma Privilege

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